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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-517

13
14 **MIKKOL YVETTE SOTER**
15 **326 North 7th Street**
16 **Santa Paula, CA 93060**
17 **Registered Nurse License No. 525697**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 Respondent.

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21 **FINDINGS OF FACT**

22 1. On or about December 24, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
24 Consumer Affairs, filed Accusation No. 2013-517 against Mikkol Yvette Soter (Respondent)
25 before the Board of Registered Nursing. (Accusation attached as **Exhibit A.**)
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1 2. On or about August 23, 1996, the Board of Registered Nursing (Board) issued
2 Registered Nurse License No. 525697 to Respondent. The Registered Nurse License expired on
3 April 30, 2010, and has not been renewed.

4 3. On or about December 24, 2012, Respondent was served by Certified and First Class
5 Mail copies of the Accusation No. 2013-517, Statement to Respondent, Notice of Defense,
6 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
7 and 11507.7) at Respondent's address of record which, pursuant to California Code of
8 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.
9 Respondent's address of record was and is:

10 **326 North 7th Street**
11 **Santa Paula, CA 93060**

12 4. Service of the Accusation was effective as a matter of law under the provisions of
13 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
14 124.

15 5. Government Code section 11506 states, in pertinent part:

16 (c) The respondent shall be entitled to a hearing on the merits if the respondent
17 files a notice of defense, and the notice shall be deemed a specific denial of all parts
18 of the accusation not expressly admitted. Failure to file a notice of defense shall
19 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
20 may nevertheless grant a hearing.

21 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
22 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2013-
23 517.

24 7. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the
26 hearing, the agency may take action based upon the respondent's express admissions
27 or upon other evidence and affidavits may be used as evidence without any notice to
28 respondent.

 8. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on
2 file at the Board's offices regarding the allegations contained in Accusation No. 2013-517, finds
3 that the charges and allegations in Accusation No. 2013-517, are separately and severally, found
4 to be true and correct by clear and convincing evidence.

5 9. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$8,430.00 as of January 31, 2013.

8 9 **DETERMINATION OF ISSUES**

10 1. Based on the foregoing findings of fact, Respondent Mikkol Yvette Soter has
11 subjected her Registered Nurse License No. 525697 to discipline.

12 2. The agency has jurisdiction to adjudicate this case by default.

13 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
14 Nurse License based upon the following violations alleged in the Accusation which are supported
15 by the evidence contained in the Default Decision Evidence Packet in this case.:

16 a. Business and Professions Code sections 490, 493 and 2761, subdivision (f), in
17 conjunction with California Code of Regulations, title 16, section 1444, in that Respondent was
18 convicted of crime substantially related to the qualifications, functions or duties of a registered
19 nurse which to a substantial degree evidences her present or potential unfitness to practice in a
20 manner consistent with the public health, safety, or welfare.

21 b. Business and Professions Code section 2762, subdivision (b), on the grounds
22 of unprofessional conduct, in that Respondent has used controlled substances and alcoholic
23 beverages in a manner dangerous or injurious to herself and other members of the public.

24 c. Business and Professions Code section 2762, subdivision (a), on the grounds of
25 unprofessional conduct, in that Respondent obtained and possessed controlled substances and or
26 dangerous drugs in violation of the law.

27 d. Business and Professions Code section 2762, subdivision (c), and on the grounds of
28 unprofessional conduct, in that Respondent was convicted of criminal offenses involving the

1 prescription, consumption or self-administration of controlled substances, dangerous drugs and
2 alcoholic beverages.

3 e. Business and Professions Code sections 2761, subdivisions (a), and (d), on the
4 grounds of unprofessional conduct, in that Respondent committed acts of unprofessional conduct
5 and acts violating the Nursing Practice Act.

6 f. As additional consideration for disciplinary action, on October 3, 2011, pursuant to a
7 Notice of Appearance and Recommendation by State Licensing Agency Re: Restrictions on
8 Practice As Registered Nurse, Respondent was ordered prohibited from engaging, either directly
9 or indirectly, in any activity for which a Registered Nurse license is required during the pendency
10 of the criminal action, *The People of The State of California v. Mikkol Yvette Soter aka Mikkol*
11 *Yvette Stanley* (Super. Ct. Ventura County, 2010, No. 2010041022). The conditions were to
12 remain in effect until further order by the Court. No further orders of the Court have been issued
13 at this time.

ORDER

IT IS SO ORDERED that Registered Nurse License No, 525697, heretofore issued to Respondent Mikkol Yvette Soter, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MAY 23, 2013.

It is so ORDERED APRIL 23, 2013.


FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51235830.DOCX
DOJ Matter ID:LA2011600880

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-517*

13 **MIKKOL YVETTE SOTER**
aka MIKKOL YVETTE STANLEY
aka MIKKOL YVETTE CARAFA
326 North 7th Street
14 Santa Paula, CA 93060

A C C U S A T I O N

15 Registered Nurse License No. 525697

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about August 23, 1996, the Board issued Registered Nurse License No. 525697
23 to Mikkol Yvette Soter aka Mikkol Yvette Stanley aka Mikkol Yvette Carafa (Respondent). The
24 Registered Nurse License expired on April 30, 2010, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

STATUTORY PROVISIONS

7. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."

8. Section 2762 states:

1 "In addition to other acts constituting unprofessional conduct within the meaning of this
2 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
3 chapter to do any of the following:

4 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
5 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
6 administer to another, any controlled substance as defined in Division 10 (commencing with
7 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
8 defined in Section 4022.

9 (b) Use any controlled substance as defined in Division 10 (commencing with Section
10 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
11 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
12 himself or herself, any other person, or the public or to the extent that such use impairs his or her
13 ability to conduct with safety to the public the practice authorized by his or her license.

14 (c) Be convicted of a criminal offense involving the prescription, consumption, or
15 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
16 or the possession of, or falsification of a record pertaining to, the substances described in
17 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
18 thereof. . . ."

19 9. Section 2764 provides that the expiration of a license shall not deprive the Board of
20 jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision
21 imposing discipline on the license.

22 10. Section 493 provides, in pertinent part that in a proceeding conducted by a board to
23 suspend or revoke a license or otherwise take disciplinary action against a person who holds a
24 license, upon the ground that the applicant or the licensee has been convicted of a crime
25 substantially related to the qualifications, functions, and duties of the licensee in question, the
26 record of conviction of the crime shall be conclusive evidence of the fact that the conviction
27 occurred, but only of that fact, and the board may inquire into the circumstances surrounding the
28 commission of the crime in order to fix the degree of discipline or to determine if the conviction

1 is substantially related to the qualifications, functions, and duties of the licensee in question.

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4 **REGULATORY PROVISIONS**

5 11. California Code of Regulations, title 16, section 1444 states, in pertinent part:

6 "A conviction or act shall be considered to be substantially related to the qualifications,
7 functions or duties of a registered nurse if to a substantial degree it evidences the present or
8 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
9 safety, or welfare. . . ."

10
11 **COST RECOVERY**

12 12. Section 125.3 provides that the Board may request the administrative law judge to
13 direct a licensee found to have committed a violation or violations of the licensing act to pay a
14 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

15
16 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

17 13. Methamphetamine is a Schedule II controlled substance as designated by Health and
18 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to
19 section 4022.

20
21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Convictions of Substantially Related Crimes)**

23 14. Respondent is subject to disciplinary action under sections 490, 493 and 2761,
24 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that
25 Respondent was convicted of crime substantially related to the qualifications, functions or duties
26 of a registered nurse which to a substantial degree evidences her present or potential unfitness to
27 practice in a manner consistent with the public health, safety, or welfare, as follows:

28 a. On or about March 29, 2012, after pleading guilty, Respondent was convicted of one

1 misdemeanor count of violating Penal Code section 484(a) [petty theft] in the criminal proceeding
2 entitled *The Matter of the People of the State of California v. Mikkol Yvette Soter* (Super. Ct.
3 Ventura County, 2011, No. 2011041314. Respondent was released on Conditional Revocable
4 Release for 36 months. Respondent was also ordered to pay fines, fees and restitution to the
5 victim, Home Depot.

6 b. The circumstances are that on or around November 19, 2011, Oxnard Police Officers
7 were dispatched to a Home Depot located in Oxnard, CA where Respondent was placed in
8 custody for shoplifting paint samples. When officers confronted Respondent, Respondent
9 admitted that it was "wrong to leave the store without paying."

10 c. On or about August 4, 2011, after pleading guilty, Respondent was convicted of one
11 felony count of violating Health and Safety Code section 11377(a) [possession of a controlled
12 substance] in the criminal proceeding entitled *The People of the State of California v. Mikkol*
13 *Yvette Soter* (Super. Ct. Ventura County, 2011, No. 2011026530). Respondent was ordered to
14 complete 36 months of probation with terms and conditions. On or around July 10, 2012,
15 Respondent was found to be in violation of probation and her probation was ordered revoked.

16 d. The underlying circumstances are that on or around July 24, 2011, a Ventura County
17 Sheriff's Deputy identified Respondent removing items of food from the trash bins behind Trader
18 Joes in Camarillo, CA. When confronted, Respondent admitted that she was in possession of
19 marijuana. When asked to remove the contents of her pockets, Respondent removed a paper
20 bindle containing methamphetamine. Respondent admitted using methamphetamine earlier the
21 same day.

22 e. On or around March 29, 2012, after pleading guilty, Respondent was convicted of one
23 misdemeanor count of violating Business and Professions Code section 4060 [possession of a
24 controlled substance] in the criminal proceeding entitled *The People of the State of California v.*
25 *Mikkol Yvette Soter* (Super. Ct. Ventura County, 2011, No. 2011007056). Respondent was
26 ordered to serve 30 days in Ventura County Jail (with credit for 30 days). Respondent was also
27 ordered to pay fees to the Court.

28 f. The underlying circumstances are that on or around February 24, 2011, Ventura

1 County Sheriff's deputies identified Respondent, who had parked her vehicle in the driveway of a
2 resident's property and unloaded some of her property into the driveway, all without permission.
3 Deputies then contacted Respondent and requested to search Respondent's vehicle. Respondent
4 declined, however deputies learned that Respondent was under court ordered probation with
5 search terms. Upon search of Respondent's purse in the vehicle, deputies identified two
6 medication bottles: One bottle containing Hydrocodone and one bottle containing
7 Acetaminophen/Codeine. Respondent was arrested for being in possession of controlled
8 substances.

9 g. On or around January 13, 2011, after pleading guilty, Respondent was convicted of
10 one felony count of violating Health and Safety Code section 11377(a) [possession of a controlled
11 substance] in the criminal proceeding entitled *The People of the State of California v. Mikkol*
12 *Yvette Soter* (Super. Ct. Ventura County, 2010, No. 2010046319FA). Respondent was placed on
13 deferred entry of judgment for 24 months with terms and conditions. Respondent was ordered to
14 "obey all laws, city, county, state and federal." On or around July 10, 2012, Respondent's
15 probation was ordered revoked and a warrant was issued for violation of probation.

16 h. The circumstances are that on or around December 30, 2010, a Ventura Police Officer
17 was dispatched to a home regarding a verbal domestic violence incident in progress. When the
18 officer arrived, Respondent exited the location carrying a pair of black pants and a folded blue
19 sweatshirt. The officer then requested that Respondent drop the items of clothing in her
20 possession, to which she complied. The officer later searched the items of clothing and identified
21 approximately 2.2 grams of methamphetamine and a glass smoking pipe with burn marks and
22 residue in the front pants pocket.

23 i. On or about January 7, 2011, after pleading guilty, the Defendant was convicted of
24 one misdemeanor count of violating Penal code section 148(a)(1) [resisting, obstructing a peace
25 officer] in the criminal proceeding entitled *The People of the State of California v. Mikkol Yvette*
26 *Soter* (Super. Ct. Ventura County, 2010, No. 2010012192MA). The Defendant was sentenced to
27 serve 8 days in jail and placed on 36 months of probation with terms and conditions, including
28 paying fines, fees and assessments.

1 j. The circumstances underlying the conviction are that on or about April 5, 2010,
2 Ventura County Sheriff's Department officers responded to a call involving a family dispute
3 where Respondent was present. When deputies arrived, they observed Respondent exhibiting
4 signs and symptoms of drug use, including having dilated pupils, a high pulse rate, fluttering
5 eyelids and demonstrating impulsive behavior. The deputies positively identified
6 methamphetamine in the Respondent's possession as well as other prescribed medication,
7 including Celexa, for which the Defendant possessed no prescription. The Respondent responded
8 to the deputies in a combative manner before she was eventually arrested.

9 k. On or about January 17, 2008, after pleading guilty, Respondent was convicted of one
10 misdemeanor count of violating Vehicle Code section 23152(a) [driving under the influence of
11 alcohol/drugs] in the criminal proceeding entitled *The People of the State of California v. Mikkol*
12 *Yvette Soter* (Super. Ct. Ventura County, 2007, No. 2007015741MA). The Court sentenced
13 Respondent to 48 hours in jail, placed her on 36 months of probation, and ordered her to complete
14 a 90-day DUI First Offender Program. On April 26, 2010, Respondent was found to be in
15 violation of probation and her probation order was revoked.

16 l. The circumstances underlying the conviction are that on or about April 25, 2007, a
17 Ventura Police Officer was dispatched to a call in reference to a possible D.U.I. driver stuck on
18 the center median. As the officer approached, he observed Respondent "weaving in and out of the
19 lane and fail[ing] to stop at the red light." When the officer confronted Respondent, she appeared
20 to have "bloodshot, watery eyes, slurred speech and unsteady gait." Respondent performed
21 poorly on the field sobriety tests and registered .07% % .06% pursuant to a breath test.

22 23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Use of Controlled Substances/Alcohol in a Dangerous Manner)**

25 15. Respondent is subject to disciplinary action under section 2762, subdivision (b), on
26 the grounds of unprofessional conduct, in that Respondent has used controlled substances and
27 alcoholic beverages in an manner dangerous or injurious to herself and other members of the
28 public. Complainant refers to and by this reference incorporates the allegations set forth above in

paragraph 14, subparagraphs c - l, inclusive, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Obtaining or Possessing Controlled Substances/Dangerous Drugs)

16. Respondent is subject to disciplinary action under section 2762, subdivision (a), on the grounds of unprofessional conduct, in that Respondent obtained and possessed controlled substances and or dangerous drugs in violation of the law. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 14, subparagraphs c - l, inclusive, as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Conviction of Crimes Involving Consumption of Controlled Substances)

17. Respondent is subject to disciplinary action under section 2762, subdivision (c), and on the grounds of unprofessional conduct, in that Respondent was convicted of criminal offenses involving the prescription, consumption or self-administration of controlled substances, dangerous drugs and alcoholic beverages. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 14, subparagraphs c - h and k - l, inclusive, as though set forth fully.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct / Violating Act)

18. Respondent is subject to disciplinary action under sections 2761, subdivisions (a), and (d), on the grounds of unprofessional conduct, in that Respondent committed acts of unprofessional conduct and acts violating the Nursing Practice Act. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 14 - 17 and all subparagraphs, inclusive, as though set forth fully.

In addition, Respondent was arrested on or around February 24, 2011 for violating Business and Professions Code section 4060[possession of a controlled substance], a misdemeanor, in the

1 criminal proceeding *The People of the State of California v. Mikkol Yvette Soter* (Super. Ct.
2 Ventura County, 2011, No. 2011007056).

3 Respondent was subsequently arrested on or around August 29, 2011 pursuant to warrant
4 issued on or around March 3, 2011 for violating Penal Code sections 978.5[failure to appear] and
5 1203.2(a)[violation of probation]. The warrant was issued based on her repeated failure to appear
6 in court and/or for violation of probation terms relating to previous criminal matters, including:

- 7 • Penal Code section 273.6(a)[intentional violation of a protective order];
- 8 • Business and Professions Code section 4060[possession of a controlled substance];
- 9 • Penal Code section 485[theft/appropriation of lost property];
- 10 • Penal Code section 148(a)(1)[resisting, obstructing a peace officer];
- 11 • Vehicle Code section 23152(a)[driving while under the influence of alcohol/drugs];
- 12 and
- 13 • Health and Safety Code section 11377(a)[possession of a controlled substance].

14 DISCIPLINARY CONSIDERATIONS

15 (License Status)

16 On October 3, 2011, pursuant to a Notice of Appearance and Recommendation by State
17 Licensing Agency Re: Restrictions on Practice As Registered Nurse, Respondent was ordered
18 prohibited from engaging, either directly or indirectly, in any activity for which a Registered
19 Nurse license is required during the pendency of the criminal action, *The People of The State of*
20 *California v. Mikkol Yvette Soter aka Mikkol Yvette Stanley* (Super. Ct. Ventura County, 2010,
21 No. 2010041022). The conditions were to remain in effect until further order by the Court. No
22 further orders of the Court have been issued at this time.

23 PRAYER

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Registered Nursing issue a decision:

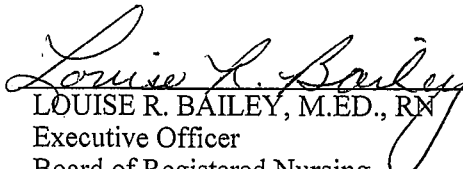
- 26 1. Revoking or suspending Registered Nurse License No. 525697, issued to Mikkol

1 Yvette Soter aka Mikkol Yvette Stanley aka Mikkol Yvette Carafa;

2 2. Ordering Mikkol Yvette Soter aka Mikkol Yvette Stanley aka Mikkol Yvette
3 Carafa;to pay the Board the reasonable costs of the investigation and enforcement of this case,
4 pursuant to section 125.3;

5 3. Taking such other and further action as deemed necessary and proper.
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9 DATED: December 24, 2012


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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